

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
CIVIL NO. CA 05-196 Erie

|                                 |   |               |
|---------------------------------|---|---------------|
| TANIELLE SHURNEY                | ) |               |
|                                 | ) |               |
| Plaintiff                       | ) | DEPOSITION    |
|                                 | ) |               |
| VS.                             | ) | OF            |
|                                 | ) |               |
| SCOTT'S ECONO INN, INC., ET AL. | ) | TONYA TRAYLOR |
|                                 | ) |               |
| Defendants                      | ) |               |

DEPOSITION taken before me, Jodie L. Algarin, a Notary Public within and for the State of Ohio, on the 11th Day of January, 2006, pursuant to Notice and Subpoena and at the time and place therein specified, to be used pursuant to the Rules of Civil Procedure or by agreement of counsel in the aforesaid cause of action, pending in the United States District Court for the Western District of Pennsylvania.

APPEARANCES

On Behalf of Plaintiff:

A.J. Adams, Attorney at Law  
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Erie, Pennsylvania 16502

On Behalf of Defendant, Scott's Econo  
Inn, Inc.:

Gerald J. Hutton, Attorney at Law  
Law Office of Baginski & Bashline  
One PPG Place  
Suite 2910  
Pittsburgh, Pennsylvania 15222-5409

On Behalf of Defendant, Scott's Splash  
Lagoon, Inc:

Gary D. Bax, Attorney at Law  
900 State Street  
Suite 202  
Erie, Pennsylvania 16501

On Behalf of Defendant, Sean Pierce:

Susan H. Malone, Attorney at Law  
Office of Attorney General  
Commonwealth of Pennsylvania  
Director of Western Region  
6th Floor, Manor Complex  
564 Forbes Avenue  
Pittsburgh, Pennsylvania 15219

## STIPULATIONS

It is stipulated and agreed by and between counsel for the parties hereto that the deposition may be taken at this time, 1:05 p.m., January 11, 2006, in the offices of Streetsboro Police Department, 2080 State Route 303, Streetsboro, Ohio.

It is further stipulated and agreed by and between counsel that the deposition may be taken in shorthand by Jodie L. Algarin, a Notary Public within and for the State of Ohio, and may be by her transcribed with the use of computer-assisted transcription; that the witness's signature to the finished transcript of his/her deposition may be and is hereby waived under agreement of the parties; and that the deposition may be thereupon used on behalf of the parties in the aforesaid cause of action as fully and to the same extent as if written in the presence of the witness and subscribed by the witness in the presence of the Notary Public.

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OBJECTIONS AND MOTIONS:

BY MR. HUTTON: PAGE(S) 29, 30, 35

BY MR. BAX: PAGE(S) 29, 30, 31, 32, 33, 36

DEFENDANT'S EXHIBITS INTRODUCED:

EXHIBIT 1 - PAGE 21

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1 WHEREUPON,  
2 TONYA TRAYLOR,  
3 of lawful age, being by me first duly  
4 sworn to testify the truth, the whole  
5 truth, and nothing but the truth, as  
6 hereinafter certified, deposes and  
7 says as follows:

8 EXAMINATION:

9 BY MR. BAX

10 Q Would you please state your name?

11 A Tonya Traylor.

12 Q Ms. Traylor, my name is Gary Bax, and  
13 I'm an attorney, and I represent Scott Splash Lagoon,  
14 Incorporated. Scott is a defendant in a lawsuit  
15 commenced by a woman named Tanielle Shurney in Federal  
16 court, the United States District Court, for the Western  
17 District of Pennsylvania at Docket No. 105 CV 196.

18 Just so you are aware who the people are here, we  
19 have the court reporter, and she's going to be making a  
20 transcript, a booklet of questions/answers, okays or  
21 other comments made during the course of this discovery  
22 deposition. This is Attorney A.J. Adams, and he  
23 represents the plaintiff in this civil case, Tanielle  
24 Shurney. She is basically suing the defendants in the  
25 case based on a claim of false arrest, false

1 imprisonment.

2 I represent Scott Splash Lagoon, Incorporated. This  
3 is Attorney Gary Hutton. He represents Econo Lodge,  
4 Inc., a hotel right across the street or next to Scott  
5 Splash Lagoon. This is attorney --

6 MS. MALONE: Susan Malone, the  
7 attorney general's office, and I represent the state  
8 trooper.

9 Q And the state trooper who arrested  
10 Tanielle Shurney is also being sued. So that's a little  
11 bit of background.

12 Now, have you ever provided a deposition before or  
13 testimony like this in this type of setting before?

14 A No.

15 Q Okay. Let me give you some  
16 instructions then. If at any time you don't hear a  
17 question that any of the attorneys ask or don't  
18 understand a question that any of the attorneys ask,  
19 please tell us and we will restate or rephrase the  
20 question. When you answer the question, we're going to  
21 assume you've heard the question, that you understand the  
22 question, and that you're responding as accurately as you  
23 can based on your own personal knowledge to the question  
24 that's been asked. Do you understand those directions,  
25 and will you agree to abide by them?

1 A Yes.

2 Q And I've told you before we're making a  
3 transcript, and so I would ask that your answers be  
4 spoken allowed, be verbal rather than a shake of the head  
5 and that if you want to answer yes or no, say yes or no  
6 rather than uh-huh or huh-uh, because it's hard to read  
7 that on the transcript.

8 A Okay.

9 Q Also to wait for the end of the  
10 question, and that way you know exactly what the question  
11 is, and it gives the other attorneys a chance to  
12 interpose an objection if they want to make an objection.  
13 Even if an objection is made, however, you're going to be  
14 asked to answer the question. And I would ask also that  
15 you not guess or speculate about any answers to any  
16 questions that we ask. If you don't know the answer,  
17 it's perfectly appropriate if you say I don't know or I  
18 don't recall as the case may be; okay?

19 A Okay.

20 Q Thanks. Are you a resident of  
21 Streetsboro, Ohio?

22 A Yes.

23 Q And what is your age?

24 A Thirty-eight.

25 Q And for the record, are you

1 African-American?

2 A Yes.

3 Q Okay. Are you currently employed?

4 A Yes.

5 Q Who is your employer?

6 A The Salvation Army.

7 Q What is your position with the  
8 Salvation Army?

9 A I'm an accountant and an auditor.

10 Q How long have you been employed with  
11 the Salvation Army?

12 A Fourteen plus years.

13 Q Have you held the same position with  
14 the Salvation Army over those 14 years?

15 A No.

16 Q Could you tell me 14 years ago what  
17 your first position was and then tell me how you  
18 progressed with the organization?

19 A Sure. Originally I was accounts  
20 payable clerk, then I was a benefits clerk, bookkeeper  
21 and now accountant auditor.

22 Q For what period of time have you been  
23 an accountant auditor?

24 A About a year -- I've been an accountant  
25 for about five years, the auditor part for one year.



1 Q Okay. For the purposes of this civil  
2 lawsuit that's been filed in Erie, Pennsylvania, we're  
3 concerned about the time period of June and July of 2004.  
4 What was your position with the Salvation Army in June  
5 and July of 2004?

6 A I was a bookkeeper accountant. It's  
7 all accounting. I include that in my accounting, but my  
8 position is not what I am today. I was a bookkeeper.

9 Q Okay. Can I ask you a little bit about  
10 your educational background. ?Are you a high school  
11 graduate?

12 A Yes.

13 Q And where did you go to high school and  
14 when did you graduate?

15 A I went to Woodrow Wilson High School in  
16 Youngstown, Ohio, and I graduated in 1985.

17 Q Did you have any education after  
18 graduation from high school?

19 A Yes.

20 Q And where did you have that education?

21 A Youngstown State University.

22 Q What was your course of study at  
23 Youngstown?

24 A I have a bachelor's degree in business  
25 management.

1 Q Is that a BA or BS?

2 A BS and BA.

3 Q When did you earn that?

4 A 1990.

5 Q I'm sorry. I didn't write down when  
6 did you graduated from high school?

7 A 1985.

8 Q Have you ever previously provided  
9 testimony in any civil lawsuit?

10 A No.

11 Q So this is your first time?

12 A Yes.

13 Q Are you married?

14 A No.

15 Q Do you have any relationship with a  
16 woman named Tanielle Shurney?

17 A No.

18 Q You've never met Tanielle Shurney and  
19 never spoken with Tanielle Shurney; is that correct?

20 A That's correct.

21 Q Never corresponded with Tanielle  
22 Shurney; correct?

23 A Correct.

24 Q Never had contact over a computer or  
25 Internet with Tanielle Shurney; is that correct?

1 A Correct.

2 Q Do you know or have you ever had  
3 contact with anyone named Tracy Smith?

4 A No.

5 Q Do you know or have you ever had any  
6 contact with anyone named Lisa Chapman or Champman.

7 A No.

8 Q In June and July of 2004 -- off the  
9 record for a minute.

10 (Whereupon an off-the-record discussion was had.)

11 Q In June and July of 2004, did you have  
12 an account with Key Bank?

13 A Yes.

14 Q Streetsboro Police Department report  
15 indicates that you had a Key Bank account where there was  
16 a number, 5449270911030937. Do you know -- can you tell  
17 us the number of your account as of June 30 of 2004 with  
18 Key Bank?

19 A Do I have it memorized, no.

20 Q Okay.

21 A I could probably look at my paper  
22 because I have it written on that paper.

23 Q Fine. You brought --

24 (Whereupon Defendant's Exhibit 2 was marked.)

25 Q I'm going to show you what's been

1 marked as group Exhibit 2. And ask you if these are  
2 photocopies of documents that you brought to the  
3 deposition today?

4 A Yes.

5 Q Using these documents, can you tell us  
6 what your debit card account number was as of June 30 of  
7 2004?

8 A Yes.

9 Q What was it?

10 A 5449270911030937.

11 Q At any time did you ever lose your  
12 card?

13 A No.

14 Q At all times did you maintain  
15 possession of your -- and by your card, I'm going to call  
16 it -- that's your debit card, the number you just  
17 identified?

18 A Yes.

19 Q So you had possession of it at all  
20 times?

21 A Yes.

22 Q Did it come to your attention at some  
23 point in time that there were -- there was an  
24 unauthorized use of purchases placed on that card?

25 A Yes.

1 Q Can you describe how that occurred?

2 A I checked my bank account every day at  
3 work and on --

4 Q How do you do that? On the computer?

5 A Yes. I go to Key.com, and I go in and  
6 I look every day. And this particular day, June 30, I  
7 checked my account, and there were two charges -- well,  
8 the initial page popped up and my account was in the  
9 negative, you know.

10 Q Overdrawn?

11 A Overdrawn. And so when I looked at the  
12 detail, I noticed that that particular moment there were  
13 two transactions that had showed up.

14 Q What were those transactions?

15 A There was one transaction for Splash  
16 Lagoon for \$198.79, and then there was a charge from  
17 Adelphia -- it said Adelphia, Ohio, which is our  
18 credit -- which is a cable company, which I do not have  
19 Adelphia, and it was \$40.

20 Q Did you ever make any reservation in  
21 June or July of 2004 with Scott Splash Lagoon or Econo  
22 Lodge in Erie, Pennsylvania?

23 A No.

24 Q Did you ever authorize anybody to use  
25 your debit card or debit card numbers to place a

1 reservation with Scott Splash Lagoon or Econo Lodge in  
2 Erie, Pennsylvania, in June or July of 2004?

3 A No.

4 Q Okay. So you saw those two  
5 transactions. Was the second transaction also  
6 unauthorized?

7 A Yes.

8 Q Okay. What happened next?

9 A I called the 1-800-KEY2YOU number  
10 immediately and said that I saw some charges on my  
11 account that weren't mine. The guy told me -- he said he  
12 would put a halt -- I don't remember exactly, but he said  
13 that he would cancel the number, but then I went directly  
14 to an actual Key Bank that was right near where I was  
15 working that day and filed a report.

16 Q Okay.

17 A And she actually is the one who stopped  
18 the account.

19 Q When you made the in-person report?

20 A When I made the in-person.

21 Q Okay. Okay. Now, did you ever contact  
22 the reservation center for Scott Splash Lagoon or Econo  
23 Lodge?

24 A Yes.

25 Q When did you do that?

1 A I can't remember the date, but I have  
2 it on here. I called Splash Lagoon on June 30, same day.

3 Q And do you recall the time of day that  
4 you called Scott Splash Lagoon or not?

5 A No.

6 Q Was it during working hours or during  
7 daytime hours?

8 A I don't know.

9 Q Okay. What contact did you have with  
10 Splash Lagoon or the reservation center?

11 A I called Splash and I told them about  
12 the transaction, and they told me to call back on July 2  
13 and speak with Patty Purchase, the reservations manager.

14 Q Do you recall the name of the person  
15 that you spoke with on June 30?

16 A I do not.

17 Q Did you tell the persons on June 30 or  
18 the person on June 30 at Splash Lagoon resort that you  
19 had not authorized any reservation to be made using your  
20 debit card number?

21 A I don't remember. I don't -- that was  
22 my whole purpose of the call.

23 Q But you have no specific recollection?

24 A Huh-uh.

25 Q You have to say yes or no. You have no

1 specific recollection; is that correct?

2 A Yes.

3 Q Did you speak with one person or more  
4 than one person on June 30?

5 A I don't know.

6 Q Okay. Did you then call and speak with  
7 Patty Purchase on July 2, 2004?

8 A Yes.

9 Q You contacted her then; correct?

10 A Yes.

11 Q Okay. And what do you recall of that  
12 conversation?

13 A We talked about a lot of different  
14 things, but basically they were able to find the  
15 reservation under my name and said that the person was  
16 expected to arrive at the hotel on July 3.

17 Q Were you provided with the name  
18 Tanielle Shurney at that point in time?

19 A No.

20 Q Okay. Were you provided with any other  
21 name at that time?

22 A No.

23 Q Okay. And did you then have contact  
24 with Officer Jon Hurley of the Streetsboro Police  
25 Department?



1 A Yes. I called him -- you want me to  
2 expand?

3 Q Yes. Sure, please.

4 A I called him and just told him that I  
5 spoke with Splash Lagoon and the person was expected to  
6 show up on July 3. And he said he would follow up or do  
7 whatever police do.

8 Q Why did you contact Officer Hurley  
9 regarding this unauthorized use of your debit card?

10 A Well, first of all, because I wanted  
11 whoever it was to be busted. Like I was mad. I'm like  
12 they got a lot of nerve. So I was glad to know that they  
13 actually booked something and maybe they could get  
14 caught.

15 Q Was it your belief that your debit card  
16 number had been stolen and used improperly?

17 A Not the card stolen, the number stolen,  
18 yes.

19 Q Okay. And did you come to the  
20 Streetsboro Police Department on June 30 of 2004?

21 A Yes.

22 Q And did you meet with Officer Hurley?

23 A Yes.

24 Q Do you recall that there was a second  
25 officer there, an Officer Beaver? Do you recall that or

1 not?

2 A I don't recall.

3 Q You dealt with Officer Hurley?

4 A Yes.

5 Q Okay. And attached to an exhibit that  
6 we marked as Hurley Exhibit 2 we have a handwritten  
7 statement that's dated June 30 of 2004. Do you recognize  
8 that statement?

9 A Yes.

10 Q It's a two-page statement; is that  
11 correct?

12 A Yes.

13 Q Okay. Is that your handwriting?

14 A Yes.

15 Q In the block that says statement made  
16 by name Tonya Traylor, is that your name?

17 A Yes.

18 Q Okay. And is this a statement that you  
19 completed during your visit to the Streetsboro, Ohio,  
20 police department on June 30 of 2004?

21 A Yes.

22 Q In the statement you note four  
23 unauthorized purchases; is that correct?

24 A Yes.

25 Q The first is for Splash Lagoon Resort

1 in Erie, Pennsylvania, in the amount of \$198.79; is that  
2 correct?

3 A Yes.

4 Q The second unauthorized purchase was  
5 from Adelphia of Ohio for \$40; is that also correct?

6 A Yes.

7 Q The third unauthorized purchase that  
8 you had discovered was for Direct Marketing Cosmetic for  
9 4.95?

10 A Yes.

11 Q And the fourth unauthorized purchase  
12 was Direct Marketing -- what is that? Lane?

13 A Bry Lane.

14 Q Bry Lane?

15 A Bry Lane. These names are what  
16 literally showed up on my -- on the bank -- my bank  
17 account. It read exactly like that.

18 Q Okay. Now, under number -- under  
19 purchase No. 3 and under purchase No. 4, there is a Lisa  
20 Chapman that's noted there. You don't know Lisa Chapman?

21 A No.

22 Q And you never authorized Lisa Chapman  
23 to make those purchases; correct?

24 A Correct.

25 Q On the second page of your statement,

1 could you read the last paragraph just into the record?

2 Could you read it out loud?

3 A I closed my debit card and will be  
4 reissued a new card and number. Plan to close my bank  
5 account but have not done so yet. I was told to file a  
6 police report so that the bank could continue with their  
7 attempt to restore my hard earned money back to me.

8 Q Those are your words?

9 A Yeah.

10 Q Now, with regard to the phrase, I was  
11 told to file a police report, who told you that? Was  
12 that the --

13 A The bank.

14 Q Okay. And at the end of this on the  
15 second page, at the end of the two-page report there's  
16 also a signature, Tonya Traylor. Is that your signature  
17 also?

18 A Yes.

19 Q So you signed the first page and the  
20 second page?

21 A Yes.

22 Q Okay. And that also contains a date  
23 and a time. And does that -- is it fair to say that the  
24 date and time reflect the date and the time that you  
25 completed this handwritten statement, to the best of your

1 knowledge?

2 A Yes. I think I came at night.

3 Q You also brought in some documents  
4 today, and we've labeled these documents, the stack of  
5 documents, as Traylor Exhibit 2. Before we get to that,  
6 I don't know if I've done this or not, but we did have  
7 Traylor Exhibit 1, and Traylor Exhibit 1 is the notice of  
8 deposition. And is this the notice of deposition and  
9 subpoena that I served upon you to come here today?

10 A Yes.

11 Q And so you've been compelled to give  
12 your testimony today; correct?

13 A Yes.

14 Q Okay. And when you appeared today, you  
15 provided the documents that are marked Exhibit 2?

16 A Yes.

17 Q And could you describe what these  
18 documents are?

19 A Sure, yes.

20 Q Kind of go through them from front to  
21 back and tell us what they are.

22 A Okay. The -- several of the letters  
23 that actually -- that have the Key symbol on them were  
24 the correspondence that I had back and forth with the  
25 bank. First two pages are the case when -- when I

1 called, they then generated the debit card dispute form  
2 and they had me complete it, which I did.

3 Q You completed that, and then you  
4 attached your letter of July 9, 2004; is that correct?

5 A Yes.

6 Q And you authored the three-page letter  
7 that's dated July 9, 2004?

8 A Yes.

9 Q And that's called detail account of my  
10 dispute, Tonya Traylor; is that correct?

11 A Yes.

12 Q And you signed that at the end?

13 A Yes.

14 Q And was it your intention to accurately  
15 report to Key Bank the circumstances surrounding the  
16 unauthorized use of your debit account number?

17 A Yes.

18 Q And is it fair to say that the  
19 correspondence of September 7, 2004, correspondence of  
20 August 11, 2004, and July 19, 2004, July 9, 2004, all  
21 relate to Key Bank's responses to your report of the  
22 unauthorized use or theft of your credit card or debit  
23 card number; is that correct?

24 A Yes.

25 Q Okay. Were you contacted on July 3,

1 2004, by Officer Hurley at the time and asked about a  
2 woman by the name of Tanielle Shurney? Do you recall  
3 that or not?

4 A I do not recall it.

5 Q Okay. May have happened, may not have  
6 happened. You just don't recall?

7 A I don't recall --

8 Q Okay.

9 A -- ever knowing the name, but it could  
10 have just went in and out, but I don't recall.

11 Q Okay. Were you ever contacted by  
12 anybody from the Streetsboro, Ohio, police department  
13 after you filed this report with regard to any  
14 investigation or any arrests that had been made? And if  
15 you don't recall, that's fine.

16 A I'm going to -- yes, but it's vague.

17 Q Okay.

18 A I'm sure I had a conversation or two  
19 with Officer Hurley afterwards, but I cannot remember  
20 what was discussed. I don't remember.

21 Q Fine. Did you ever have any personal  
22 contact after you made the report to Officer Hurley with  
23 a Pennsylvania State Police?

24 A No.

25 Q Did you ever have any personal contact

1 at any time with the Pennsylvania State Police?

2 A No.

3 Q Did you ever have any contact with  
4 anyone from Splash Lagoon after you spoke with Patty  
5 Purchase on July 2 of 2004?

6 A Yes.

7 Q And what was the nature of that  
8 contact?

9 A I spoke to Patty Purchase.

10 Q And?

11 A A couple, three times, but --

12 Q What was said?

13 A I was aware -- I knew that a person had  
14 been arrested. I don't even remember if I called her or  
15 if she called me, because obviously I was curious,  
16 because I thought it was real exciting that -- so at the  
17 time I was curious to find out, and I did find out.  
18 Didn't -- I don't remember knowing the name, though, but  
19 that wasn't my concern. I just knew that it happened.  
20 That person actually did show up that day and they were  
21 arrested.

22 Q Okay.

23 A And then I spoke to Patty a couple more  
24 times. I don't know if you want me to go on.

25 Q Fine. Go ahead.



1 A Over -- just over the bank restoring my  
2 money to me, and then Splash Lagoon reimbursing me for  
3 the money, and she noticed it, so then she called and  
4 thought that I got over twice.

5 Q Okay. That you were reimbursed twice?

6 A Right. But then I had a letter that  
7 clearly said the same day I deposited it I called the  
8 bank and told them, so it's like I covered myself that  
9 they then -- the letter said you called us, and now we  
10 are reversing, you know, but the reason I did it that way  
11 is because the bank told me I had to try to get my money.  
12 You need to try and make contact with everybody to get  
13 it, and that's how that went down.

14 And then I talked to her another time, and I don't  
15 know the time frame, when she said you need to contact  
16 the Streetsboro Police Department because this lady is  
17 claiming she's suing or whatever. I said, I'm not it in  
18 it anymore. I'm not contacting anybody. I got my money  
19 back.

20 Q And that's it?

21 A And that's it. And then you called.

22 Q And I contacted you to ask about the  
23 details of your trans -- your contacts with Splash Lagoon  
24 and Officer Hurley; correct?

25 A Yes.

1 Q Okay. And I've also had contact with  
2 you to arrange for your deposition today; is that also  
3 correct?

4 A Yes.

5 Q The testimony you provided today is  
6 based on the events as you recall as they occurred; is  
7 that correct?

8 A Yes.

9 Q Okay. When you spoke with Patty  
10 Purchase of Scott Splash Lagoon on July 2 of 2004, did  
11 you tell her that you had not authorized anyone to use  
12 your debit card number for a reservation at either Econo  
13 Lodge or at Scott Splash Lagoon?

14 A Yes.

15 MR. BAX: I think those are all the  
16 questions that I have for you. Thank you.

17 EXAMINATION:

18 BY MR. ADAMS

19 Q Ms. Traylor this is the first time  
20 we're meeting; correct?

21 A Yes.

22 Q And we've never had any form of  
23 communication either in writing or telephone?

24 A Yes.

25 Q Okay. Now, I'm just going to ask a few

1 questions based upon the questions that Mr. Bax just  
2 asked you.

3 A Okay.

4 Q If you don't understand them, I'll be  
5 glad to repeat them.

6 A Okay.

7 Q Now, you indicated that you learned  
8 about the Splash Lagoon being on your account on what  
9 day?

10 A June 30.

11 Q June 30. So on June 30, you called  
12 Splash Lagoon or Econo Lodge; is that correct?

13 A Yes.

14 Q How did you get the number?

15 A I don't remember, but, I mean, it's not  
16 hard. I would say I probably typed in Splash Lagoon --  
17 wait. Sometimes on my bank -- on the bank thing a number  
18 will show up. But I can't verify that, but I could have  
19 easily typed in Splash Lagoon or the Internet and the web  
20 site came up. I heard of the place, so that may be it.

21 Q Okay. So then on June 30, you called  
22 for -- however else you got the number, and you don't  
23 remember who you spoke to; correct?

24 A Correct.

25 Q And what was the sum total of your

1 conversation with whoever that person was?

2 A The sum total is I said, I notice that  
3 there was a transaction posted to my account that I did  
4 not make. And then sum total would be that they then  
5 said I needed to talk to the reservations manager and to  
6 call back because she was not there when I called.

7 Q Okay. Did you, in fact, tell them on  
8 June 30 I did not make that reservation, cancel that  
9 reservation?

10 MR. HUTTON: Object to the form of  
11 that.

12 Q You can go ahead.

13 A I don't think I told them to cancel it.  
14 On that day I didn't even know -- I didn't know.

15 Q You were under the impression on June  
16 30 that someone had made a reservation using your debit  
17 card number; correct?

18 A Correct.

19 Q And did they tell you the name of the  
20 person who made the reservation using that debit card  
21 number?

22 A No.

23 Q Okay. Then what was the next contact  
24 you had with Splash Lagoon or Econo Lodge?

25 A That would have been on July 2 when I

1 called Patty Purchase.

2 Q Okay. All right. And what was the sum  
3 total of your conversation with Ms. Purchase?

4 MR. BAX: I'm going to object to  
5 the form of the question. She's -- the question -- there  
6 are a number of questions that have been asked. I think  
7 the sum total --

8 MR. HUTTON: Overly broad and I  
9 join in the objection.

10 Q We'll be very specific then. Did you  
11 call Splash Lagoon or Econo Lodge on July 2?

12 A Yes.

13 Q Did somebody answer the phone?

14 A Yes.

15 Q Do you know who answered the phone?

16 A I spoke to Patty Purchase. I don't  
17 know who answered the phone when I first called, but I  
18 spoke to Patty Purchase.

19 Q Do you remember approximately what time  
20 of day it was on July 2?

21 A I do not.

22 Q And when you spoke to Ms. Purchase at  
23 that point in time, did you learn whose name the  
24 reservation was in using your debit card?

25 A Okay. I need to ask -- I'm --

1 Q Go ahead.

2 A No, I did not know who the person was.

3 Q Is it safe to say that you were upset  
4 because somebody used your debit card number?

5 A Definitely.

6 Q And as a result of being upset, do you  
7 believe you would have asked Ms. Purchase who the person  
8 was who used your debit card number?

9 MR. BAX: Object to the form of the  
10 question.

11 Q Okay.

12 A No.

13 Q So you never were curious as to who  
14 might have used your card?

15 MR. HUTTON: Object to the form of  
16 the question. You're asking about a conversation on July  
17 2, and to use the phrase never would be all encompassing  
18 in terms of time.

19 Q On July 2, did you make any inquiry --  
20 that is, ask Ms. Purchase or anybody there who used your  
21 account number?

22 A I may have asked that question, but I  
23 don't know that I got an answer.

24 Q Okay. So the name Tanielle Shurney did  
25 not come up in that conversation on July 2?

1 MR. BAX: Object to the form of the  
2 question. Mischaracterizes her answer.

3 Q Did the name Tanielle Shurney come up  
4 during the course of the conversation?

5 A I don't know.

6 Q Okay. Did you at that point in time  
7 indicate you wanted to cancel the reservation?

8 A Yes. Yes.

9 Q Okay. Now, did you have a conversation  
10 with Ms. Purchase as to how you were going to get your  
11 money back?

12 A Yes.

13 Q And what was that conversation?

14 A She said that she needed to contact  
15 their accounting department or whoever handles that part  
16 of it and she would follow up with me getting my money  
17 back.

18 Q And did she say she would be your  
19 contact person for purposes of this problem, to call me  
20 when you have a question?

21 MR. BAX: Object to the form of the  
22 question.

23 Q You can answer if you understand the  
24 question.

25 A I don't remember.

1 Q Okay. What was the next conversation  
2 that you had with Ms. Purchase after July 2?

3 A I don't remember dates, times, because  
4 I only -- I only remember actually what I wrote on this  
5 paper at this point. I can vaguely remember talking to  
6 her, but obviously I was trying to get -- because it took  
7 about a month before she actually -- it took a while for  
8 Splash Lagoon to reimburse me the money. So I know I  
9 spoke to her a couple times, but that's all I know.

10 Q Okay. So the money was actually taken  
11 out of your account on June 26 of 2004; is that correct?

12 A I noticed it on June 30.

13 Q Okay. And it says -- looking at your  
14 statement, the transaction date was June 26.

15 A Okay.

16 Q Is that correct?

17 A Yes.

18 MR. BAX: If you know.

19 A Yes.

20 Q You might as well --

21 A This is based on the bank records, not  
22 me saying it, yes.

23 Q That's fine. On Page 2 of your report,  
24 do you see that there?

25 A Yes.



1 Q Just has the three transaction dates?

2 A Yes.

3 Q June 27, July 1 and July 2?

4 A Yes.

5 Q Do you have any explanation as to why  
6 the Splash Lagoon transaction date of June 26 isn't  
7 included in Page 2?

8 A This is from the bank. I can  
9 speculate, but I don't know. It's just my opinion, but  
10 this came from the bank and I believe --

11 MR. BAX: I'm going to object to  
12 any answer that calls for her to speculate and move to  
13 strike her response.

14 Q Okay. Go ahead. You can answer.

15 A I can still answer?

16 Q Yes.

17 A I believe by the time this letter was  
18 sent to me on September 7, 2004, the issue with Splash  
19 Lagoon was already resolved because they had given me  
20 back my money and these other three weren't.

21 Q All right. Now, the Adelphia, which we  
22 all know to be a cable company, did you learn the  
23 person's name or account that was used to pay with your  
24 debit card number?

25 A No. They wouldn't share any

1 information with me at all when I called Adelphia. They  
2 just said file it with your bank, and that's as far as I  
3 got with Adelphia.

4 Q How did you learn about Ms. Chapman's  
5 being the person for the two other transaction accounts?

6 A When I called both of those -- wait.  
7 That's on this one. When I called Cosmetique and when I  
8 called Bry Lane Home, they were able to trace my credit  
9 card number, and they told me a Lisa Chapman made this  
10 particular purchase in both cases.

11 Q And you had some conversation with  
12 Officer Hurley about his efforts regarding contacting Ms.  
13 Chapman?

14 A I don't remember. It's in my report,  
15 but I don't remember speaking to him about it.

16 Q Okay. Did you have any contact with  
17 Ms. Chapman?

18 A No.

19 Q And you do not know who Ms. Chapman is?

20 A I do not know who she is.

21 Q When were you compensated for Ms.  
22 Chapman's use of your card?

23 A I don't remember exactly.

24 Q Okay.

25 A I don't remember.

1 Q All right.

2 MR. HUTTON: Make a belated  
3 objection to the form of the question. It assumes there  
4 was a Ms. Chapman, which is the person who used Ms.  
5 Chapman's name in making the charge.

6 Q Where is the Salvation Army office that  
7 you work at?

8 A 2507 East 22nd Street in Cleveland.

9 Q Is that East Cleveland or regular  
10 Cleveland?

11 A Downtown Cleveland. Zip code is 44115.

12 Q Did anything unusual happen around the  
13 end of June of 2004 that you can think of as to that  
14 debit card number?

15 A I can guess. I mean, obviously was  
16 trying to wonder where I might have been. I did eat at a  
17 restaurant at one place, and it just stuck out as maybe  
18 it was at the restaurant, but that is based on nothing  
19 other than me trying to wonder when it could have  
20 happened.

21 Q Do you remember the name of the  
22 restaurant?

23 A I can see the restaurant. I remember  
24 what I ate. I can't think of the name of it.

25 Q It's close by your office?

1 A Relatively close.

2 Q Okay. So then what is the first  
3 contact you have with anybody from the Pennsylvania State  
4 Police about this matter?

5 MR. BAX: I'm going to object to  
6 the form of the question. Assumes she had contact.

7 Q Did you ever have contact with anybody  
8 from the Pennsylvania State Police regarding this?

9 A I never had contact with the police in  
10 Pennsylvania.

11 Q So you've never heard from Trooper  
12 Pierce or anybody from the Pennsylvania State Police  
13 right up to today's date?

14 A Correct.

15 Q Okay. Have you heard from the  
16 Pennsylvania State Police in any way since this incident  
17 happened?

18 A No.

19 Q Either directly or through the attorney  
20 general's office?

21 A No.

22 Q Did you submit any reports to anybody  
23 from the Pennsylvania State Police or the Pennsylvania  
24 Attorney General regarding this incident?

25 A No.

1 Q And nobody's contacted you about it?

2 A Correct.

3 Q Okay. You said you talked about a lot  
4 of stuff when you were talking to Ms. Purchase. Was it  
5 just -- was it about this incident or --

6 A Sort of, yeah. I mean, I talked to  
7 her, yeah. We were talking about how it happened and the  
8 tragedy and just, you know, it's unfortunate that people  
9 steal stuff. It just got to be general.

10 Q Did she mention to you the fact that  
11 maybe a woman named Tracy Smith made this reservation?

12 A No, never heard that name.

13 Q And she didn't indicate to you any of  
14 the circumstances that led to them getting the  
15 reservation?

16 A Right. She did not.

17 Q She didn't share any of that with you?

18 A She did not.

19 Q Did she seem to know how it happened?  
20 Did she seem to have any knowledge as to how it happened?

21 A No.

22 Q So she was as surprised as you were?

23 A Yes.

24 Q So just to be clear, then, on July 2,  
25 you were at least under the clear impression that the

1 reservation that was made was cancelled?

2 A No. I was just calling to report to  
3 say that it wasn't mine. I didn't know what the process  
4 was of whether it was cancelled or not.

5 Q You didn't say, oh, what the heck, I  
6 already paid for it, I'm going to show up and do it  
7 myself?

8 A Oh, no, no.

9 Q Okay. Was there any subsequent uses of  
10 this card other than the four attempts that we've talked  
11 about that you know of?

12 A That were fraudulent?

13 Q Right.

14 A No.

15 Q This card ended on what day?

16 A I would say June 30 when I went to the  
17 bank and they cancelled the number. I didn't cancel my  
18 bank account, just the debit card part of it.

19 Q Okay. So the debit card account was  
20 closed before the date of the reservation?

21 A Yes.

22 Q Okay. And did you get two checks back,  
23 then, from the hotel and Splash Lagoon?

24 A No. I had to request provisional  
25 credit from the bank to give me my money back while they

1 were going to through the process of investigating. So I  
2 got the money back from Splash Lagoon. In some kind of  
3 way Splash saw that. Then Splash Lagoon issued me a  
4 check for the same amount. Then I called the bank and  
5 said I am in receipt of the Splash Lagoon check. I'm  
6 depositing it, and then they took it back out.

7 Q Okay. And do you have any idea when  
8 that was?

9 A I have a bank statement, but I didn't  
10 bring it.

11 Q Was it after --

12 A According to this letter that I -- it  
13 was on or about August 11, because I called the bank and  
14 said I deposited the Splash Lagoon check, and they said  
15 per your telephone conversation Splash Lagoon has sent  
16 you a check in the amount of \$198.79, and it was posted  
17 to your account on August 9, therefore today we reversed  
18 the duplicate credit previously applied by our office.

19 Q Okay. And Ms. Purchase was the only  
20 person that you really did speak to at the Econo Lodge  
21 or Splash Lagoon throughout the course of this  
22 transaction?

23 A Yes.

24 MR. ADAMS: Okay. I have nothing  
25 further. Thank you.

1 EXAMINATION:

2 BY MR. HUTTON

3 Q My name is Jerry Hutton. I represent  
4 Scott's Econo Lodge. I just have a few questions for  
5 you. If I wanted to understand your testimony summary,  
6 would it be accurate that you owned a credit card that  
7 was affixed to a bank account?

8 A Debit card.

9 Q Debit card. And that that was with  
10 Keystone Bank or Key Bank?

11 A Key Bank.

12 Q And that card was valid and in effect  
13 on June 26, 2004?

14 A Yes.

15 Q And somehow someone was able to access  
16 your account and place charges on your bank statement or  
17 against your bank account through that number?

18 A Yes.

19 Q And that's what happened to you?

20 A Yes.

21 Q And am I accurate that you learned that  
22 charges were being improperly placed on your Key account  
23 on June 30 and you made a prompt report to the bank and  
24 to the police; would that be accurate on June 30, 2004?

25 A Yes.



1 Q And at that time while those charges  
2 that you learned had been posted against your account was  
3 a charge that was posted on June 26, 2004, with Splash  
4 Lagoon in the amount of 190 or 180 some dollars, whatever  
5 the amount is?

6 A Yes.

7 Q And at that time that charge was placed  
8 on your account, that account was open, valid and in  
9 effect?

10 A Yes.

11 Q And that number was a number that was a  
12 valid number on your account?

13 A Yes.

14 Q Your bank account?

15 A Yes.

16 Q And you hadn't given anyone permission  
17 -- no matter what name we referred to, you hadn't given  
18 anyone permission to access your bank funds and charge  
19 debits for any of these things that are listed in these  
20 records attached to Exhibit 2. That was your account and  
21 your account only; is that fair to state?

22 A Yes. That's correct.

23 Q And you learned that Splash Lagoon had  
24 placed a charge against your account of about \$180 and  
25 that your balance was reduced by that amount?

1 A Yes.

2 Q And that actually that accommodation of  
3 the other charges that occurred in the next couple days  
4 started the effect of overdrafts?

5 A Yes.

6 Q You had additional charges being posed  
7 against you because of the overdraft charges?

8 A Yes.

9 Q Okay. And am I correct that none of  
10 these charges, whether it was from Lane Bryant or  
11 Adelphia or Splash Lagoon were charges that you approved  
12 of?

13 A Correct.

14 Q You had not made any reservation with  
15 Splash Lagoon; is that fair?

16 A That's correct.

17 Q You didn't authorize anyone to make a  
18 reservation using your account number for that July 4  
19 weekend of 2004?

20 A Correct.

21 Q And I take it that you have a habit of  
22 regularly checking your account?

23 A Every day.

24 Q And that's the reason why you caught  
25 that before the reservation was actually used because you

1 had the luck of seeing it on June 30, promptly reported  
2 it?

3 A Correct.

4 Q You didn't wait to receive a -- 30 days  
5 later a bank draft or bank statement saying this had  
6 happened last month, here's the charge?

7 A Right.

8 Q Okay. And one of the things you did,  
9 you first contacted the bank, contacted the police, and  
10 then after getting instructions from the bank and police,  
11 you contacted Splash Lagoon?

12 A Yes.

13 Q Now, when you called Splash Lagoon on  
14 June 30, I take it it's with the understanding that  
15 there's a charge on my account that I did not authorize;  
16 would that be fair?

17 A Yes.

18 Q Okay. And did you give the people at  
19 Splash Lagoon that impression, that there was an  
20 unauthorized charge that was made by the Splash Lagoon on  
21 your bank account that was improper?

22 A Yes.

23 Q Okay. And then you waited later to  
24 July 2 to talk to someone -- representative at Splash  
25 Lagoon about that purchase?

1 A Yes.

2 Q And I take it you never made that  
3 reservation; is that fair?

4 A Yes.

5 Q Is it also fair that having not made  
6 the reservation based on what you testified in the last  
7 part of your deposition, you did not request anyone to  
8 cancel any reservations. Simply the reservation wasn't  
9 yours to make or cancel?

10 A Yes.

11 Q Wasn't in your name; is that fair?  
12 There was no reservation, to your knowledge, never made  
13 at Splash Lagoon in your name using your name and your  
14 address and your telephone number?

15 A Yes.

16 Q Okay. And I guess the police report  
17 lists you as the victim; is that accurate?

18 A Yes, I'm the victim.

19 Q Your bank accounts were taken, charged.  
20 You had to go to the problem of reporting all this to the  
21 different merchants, and you had to go to the problem of  
22 cleaning up your credit report, is that fair, to get the  
23 money back?

24 A Yes. Credit report, I don't know, but  
25 yes.

1 Q Not simply you were charged; you also  
2 had the inconvenience of --

3 A They made me put forth the effort to  
4 get the money back. It was an inconvenience all the way  
5 around, and it took a minute for them to give me  
6 provisional credit. For a couple, few days, I had no  
7 money, so yes.

8 Q Do you have -- I guess there's a charge  
9 with the clothing -- is Bryant, Lane Bryant?

10 A Yes. It was called Bry Lane Home on my  
11 bank statement; but when I called, they said the purchase  
12 was made through Lanebryant.com.

13 Q And do you have any idea what was being  
14 purchased?

15 A No.

16 Q Clothes or --

17 A It's a clothing store, but --

18 Q Lady's clothing?

19 A Yes. Lady's clothing.

20 Q Oversized lady's clothing?

21 A Big girls.

22 Q You're not a large lady; is that fair  
23 to state?

24 A Correct.

25 Q Did you --

1 A Actually I was then, but I lost weight.  
2 I needed to say that for my own satisfaction.

3 Q Did you get any information that would  
4 identify the locale, address as to where those were being  
5 shipped?

6 A Yes. They told me that the items  
7 were -- they told me it was a Lisa Chapman and that her  
8 zip code was 44112.

9 Q Did they give you an address as to a  
10 physical location where those goods -- I assume clothing?

11 A They wouldn't tell me that.

12 Q They wouldn't tell you that?

13 A Nope.

14 Q And I take it that after your efforts,  
15 then, you were subsequently reimbursed these moneys; is  
16 that right?

17 A Say that one more time.

18 Q After your efforts, you were  
19 subsequently reimbursed the funds?

20 A Yes.

21 Q But it took effort?

22 A Yes. And time.

23 Q It's also clear that your account was  
24 charged on June 26. Moneys taken from your bank  
25 account?

1 A Yes.

2 MR. HUTTON: That's all the  
3 questions I have.

4 MS. MALONE: I have no questions.

5 MR. BAX: Any more questions?

6 MR. ADAMS: No.

7 MR. BAX: We're done now. And you  
8 have the opportunity to read and review this transcript  
9 or booklet and on a separate page make any corrections to  
10 typographical errors or make any additional comments or  
11 correction on a separate sheet of paper. Can't change  
12 what's on the transcript. You can make comments or  
13 corrections on a separate sheet of paper. Or if you want  
14 to, you can waive your right to do that and trust the  
15 court reporter will provide an accurate transcript. It's  
16 your choice what you want to do. Would you like to read  
17 or do you want to waive that?

18 MR. HUTTON: Off the record.

19 (Whereupon an off-the-record discussion was had.)

20 THE WITNESS: We'll rely on the  
21 accuracy.

22 MR. HUTTON: So you waive it  
23 then?

24 THE WITNESS: I waive it.

25 (Whereupon a recess was taken.)

1 MR. BAX: Mr. Adams, we've now  
2 completed the depositions of Officer Hurley and the  
3 victim, Tonya Traylor, and at the end of these two  
4 depositions based on the testimony that was provided by  
5 these witnesses today, Scott Splash Lagoon, Inc., and the  
6 other defendants in this case would request that you  
7 immediately voluntarily discontinue this lawsuit.

8 We request that you do that. If you don't do that,  
9 we're putting you on notice today that we will consider  
10 that any continuation of this litigation is done in bad  
11 faith and we will seek attorneys' fees and sanctions for  
12 that.

13 MR. HUTTON: And particularly for  
14 the violation of Rule 11 and particular as to the  
15 allegations in the complaint that use of the card was  
16 authorized or that this was not a fraudulent or stolen  
17 use of the credit card. As appearing allegations of the  
18 plaintiff's as representative the motion to dismiss and  
19 status conference we believe, and continue action of this  
20 action is done in bad faith and results in unreasonable  
21 cost to defense and ask all costs be reimbursed.

22 I sent you a Rule 11 and notified you this matter  
23 should be dismissed; additionally after this testimony  
24 I'm renewing my request for the authorization which had  
25 been ordered by Judge McLaughlin, status conference that



1 has not been received. Thank you.

2 SIGNATURE WAIVED

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